

December 8, 2015

The Honorable Lisa Posthumus Lyons, Chair, House Committee on Elections
Members of the House Committee on Elections

Re: SB 13 (end straight-ticket voting; preclude referendum possibility)

Dear Chair Lyons and Members of the Committee:

I write in opposition to SB 13. A similar proposal in 2001, PA 269, to end a straight-party vote was subjected to a referendum in 2002. The voters spoke quite convincingly in defeating that statute with a 59.7% majority.

I object to the tactic of inserting a specious appropriation into SB 13 to prevent the possibility of another referendum on the same issue.

Insertion of the appropriation is cynical politics. Everyone knows why the appropriation was added to the bill – to thwart a possible referendum. To spin it any other way detracts from the credibility of those who try.

While it can and will be argued that the Michigan Supreme Court interpreted the Michigan Constitution of 1963, Article II, Section 9, and the phrase “The power of referendum does not extend to acts making appropriations for state institutions...” to disallow a referendum if any sort of appropriation is included in the statute in question, the Court missed the context of that clause.

When I began as an intern in the House in 1967-68, the practice was and continued for many years after, that a bill requiring an appropriation for its implementation had to be referred under the rules to the Appropriations Committee. (The House rule was eliminated several Sessions ago.) Those referred bills did not include an appropriation (except for school aid which has always been unique and for many years went first to the House Education Committee and then by referral to the House Appropriations Committee). Any necessary expenditure would be included in a future budget bill or supplemental. Some bills simply died in Appropriations.

The Supreme Court’s ruling effectively negates the existence of a referendum – contrary to established rules of construction to reconcile conflicting or apparently conflicting provisions to preserve the most important policy, here the power of the people to turn down a legislative statute. What the Court misunderstood was that Article II, Section 9, was not intended to insulate policy-making statutes from a referendum – rather it was **intended to insulate the then-normal appropriations process from a referendum.**

That context is important. **It is equally important that the Legislature confirm, not thwart, the clear empowerment of the citizens of this state under our Constitution to second-guess the Legislature and petition for a referendum – if that is their will and they garner sufficient signatures to put that statute to the test of the electorate.**

The increasing tendency for the Legislature to add an appropriation to controversial bills for the sole purpose of making them referendum-proof undermines respect for the institution of the Legislature. Those outside the Legislature who press for these controversial measures,

including SB 13, care only about political power, the immediate policy goal, and "winning at all cost". They don't care about the institution of the Legislature.

I had the good fortune to serve as staff for the Michigan Legislature for 45 years, all but 2 with the House. I care about the institution. This referendum barrier does a great disservice to that institution and diminishes its reputation now and into the future.

I believe that the Supreme Court got it wrong. The Legislature can and should do it right.

If the Committee and House move on SB 13, the appropriation should be removed.

Respectfully,

A handwritten signature in dark ink, appearing to read "Bruce A. Timmons", with a long horizontal flourish extending to the right.

Bruce A. Timmons
Okemos MI

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